

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON BUSINESS AND LABOR**

**Call to Order:** By **CHAIRMAN JOE MCKENNEY**, on January 16, 2001 at 8:00 A.M., in Room 172 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Joe McKenney, Chairman (R)  
Rep. Gary Matthews, Vice Chairman (D)  
Rep. Sylvia Bookout-Reinicke (R)  
Rep. Roy Brown (R)  
Rep. Nancy Fritz (D)  
Rep. Dave Gallik (D)  
Rep. Kathleen Galvin-Halcro (D)  
Rep. Dennis Himmelberger (R)  
Rep. Carol C. Juneau (D)  
Rep. Jim Keane (D)  
Rep. Rick Laible (R)  
Rep. John Musgrove (D)  
Rep. William Price (R)  
Rep. Donald Steinbeisser (R)  
Rep. Brett Tramelli (D)  
Rep. James Whitaker (R)

**Members Excused:** Rep. Rod Bitney, Vice Chairman (R)  
Rep. Bob Lawson (R)  
Rep. Allen Rome (R)

**Members Absent:** None.

**Staff Present:** Gordon Higgins, Legislative Branch  
Jane Nofsinger, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB235, HB230, HB234, HB245,  
HB255, 1/15/2001  
Executive Action: HB 136, HB145, HB235, HB255

**{Tape : 1; Side : A; Approx. Time Counter : 0}**

**HEARING ON HEARING ON HB235**

**Sponsor:** REP. ROY BROWN. HD14, Billings

**Proponents:** Janice Doggett, Counsel, Secretary of State

**Opponents:** None

**Opening Statement by Sponsor:**

REP. ROY BROWN, HD 14, Billings, said this is a bill requested by the Secretary of State's office which prohibits business name identifiers from stating or implying a business is a different type of entity than it is.

**Proponents' Testimony:** Ms. Doggett said a name identifier should indicate what the business is and the language of the previous statute did not accomplish this. The new bill clarifies it.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

REP. GALLIK asked Ms. Doggett what was the problem with the case she cited. She said the business had started as a partnership and had involved into a limited liability corporation. She said the name should reflect the type of entity the business was. She said the law was not concerned with the type of product sold.

**Closing by Sponsor:**

REP. BROWN urged the committee to pass the bill.

**HEARING ON HEARING ON HB 230**

**Sponsor:** REP. WILLIAM PRICE, HD94, Lewistown

**Proponents:** None

**Opponents:** Gail Abercrombie, Montana Petroleum Association  
Don Allen, self

**Opening Statement by Sponsor:**

REP. WILLIAM PRICE, HD94, Lewistown, said the bill was initiated by one of his constituents. He said several informational witnesses were present to answer questions. The bill would

clarify definitions, change some inspection cycles, extend correction periods to summer months, and change a fee structure.

**Proponents' Testimony:** None

**Opponents' Testimony:**

**Ms. Abercrombie** said refineries are happy with the current way boilers are being handled. She wanted to clarify that some heat exchangers are called boilers but really are not and do not fall under this category.

**Mr. Allen** urged the committee to not approve the bill as written. He said shutdowns could curtail needed fuel production and there could be hardship on remotely located boilers if this bill was passed.

**Informational Testimony:**

**Mr. Bill Jellison** of the Department of Commerce said he would address any questions and noted that the bill did not address unfired boilers.

**Mr. Steve Meloy** of the Department of Commerce said there is no board attached to the regulation of boilers. He noted boilers sometimes explode and can be very destructive. He cited the recent explosion of the Capitol Laundry in Helena which was still the subject of a law suit.

**Questions from Committee Members and Responses:**

**REP. LAIBLE** asked **Ms. Abercrombie** and **Ms. Jellison** some questions about types of boilers and regulations. He was told the bill did not change regulations controlling unfired boilers.

**REP. KEANE** and **REP. GALLIK** asked about inspections of school boilers. **Mr. Meloy** said inspecting school boilers and licensing their operators would alleviate some of his department's concerns. He said the amending language would do that, otherwise it was a great bill.

**Closing by Sponsor:**

**REP. PRICE** he felt the hearing had addressed the issues of licensing and inspection of boilers and thanked the committee for the hearing.

HEARING ON HEARING ON HB245

*{Tape : 1; Side : A; Approx. Time Counter : 8.5}*

Sponsor: REP. DAVE GALLIK, HD52, Helena

Proponents: Darrel Holzer, MT AFL-CIO  
Sharon Hoff-Brodowy, Montana Catholic Conference  
Kimberly Eitzentreger, MPA  
Brienne Kerstein, MPA  
Wendy Young, WEEL  
Betty Whiting, Montana Association of Churches  
Gene Fenderson, Montana Joint Highway Construction  
Mike Fellows, self

Opponents: Brad Griffin, Montana Retail and Restaurant Assn.  
Adin Myhre, Montana Chamber of Commerce  
Charles Brooks, Billings Chamber of Commerce  
Riley Johnson, NFIB  
Carl Switzer, Bozeman, Kalispell Commerce Chambers  
Bill Stevens, Montana Food Retailers Association

Opening Statement by Sponsor:

REP. DAVE GALLIK, HD52, Helena, said his bill will make employers who receive over \$40,000 in public assistance pay their full-time employees \$8.20 per hour which was equivalent to 100 percent of the federal poverty level for a family of four or 125 percent if they did not provide a bona fide health insurance plan.

Proponents' Testimony:

**Mr. Holzer** said he strongly supported the bill and that 37 states had some type of quality job law required of employers who received public finance.

**Ms. Hoff-Broadowy** supported the bill saying she thought it would help the economy if employers paid a living wage.

**Ms. Eitzentreger** said this was not just a liberal Missoula issue and a similar law had almost passed in Missoula. She noted there was a lot of grassroots support.

**Ms. Kerstein** said she had she had been working on this issue around the state. She said corporations had to do little accounting of the money they received and she thought they should have to report to the state as to where the money they received was spent. She said her group actually defined a living wage as \$9.02 per hour.

**Ms. Young** said she wanted to focus on the health insurance aspect of the bill. She noted that the cost of health insurance without the benefit of a group plan is incredibly expensive.

**Ms. Whiting** said she supported the bill and was concerned about single parent families who live in poverty.

**Mr. Fenderson** asked the committee to support the bill as a part of corporate America being responsible to the communities where they live.

**Mike Fellows** presented written testimony. **EXHIBIT (buh12a01)**

**Opponents' Testimony:**

**Mr. Griffin** said he opposed the bill because it was inappropriate for the government to be setting wages within private enterprise. He said that since health insurance is a tax deduction for employers that perhaps it could be construed as a tax incentive under this bill. He said therefore this bill could affect virtually every business in the state.

**{Tape : 2; Side : A; Approx. Time Counter : 0}**

**Ms. Myhre** stated Montana businesses tried to do the very best they can and pay the best they can. She said she opposed the bill.

**Mr. Brooks** said the bill assumes the company should pay workers according to need rather than skill. He said education and training are what determine pay increases.

**Mr. Johnson** said he was in opposition to the bill and believed the marketplace should set the wage. He said there was ambiguity with the definition of public assistance to businesses in the bill. Furthermore, he said if two businesses compete and the one has public assistance and the other does not, the costs will then be higher for the one which has public assistance and has to pay the higher wage.

**Mr. Stevens** opposed the bill.

**Questions from Committee Members and Responses:**

**REP. BOOKOUT-REINICKE** asked **REP. GALLIK** some questions about benefits, how he determined the figures he was using and if they could be revised every year. **REP. GALLIK** replied his figures were in line with other states and would be tied to federal definitions for future revision.

**REP. BROWN** asked **REP. GALLIK** who would enforce the law and if it affected part-time employees. **REP. GALLIK** said it would apply to

employees working 35 hours or more in a structured work week and enforcement would fall under the Department of Labor.

**REP. LAIBLE** asked **REP. GALLIK** if he thought employers would start hiring people for 32 hours a week to avoid the wage law and some questions about how many employers and employees would be covered by this law. **REP. GALLIK** replied some might and that he did not know how many companies would be under this law.

**Closing by Sponsor:**

**REP. GALLIK** called this a fairness issue and said that for employers to pay workers \$8.20 hour was only fair if they were receiving taxpayer funds. He said this was a way to create good jobs.

**HEARING ON HEARING ON HB234**

**Sponsor:** **REP. BOB LAWSON. HD80, Whitefish**

**Proponents:** **Janice Doggett, Chief Counsel, Secretary of State**  
**Joe Mazurek, attorney**  
**Tony Herbert, ISD/DOA**  
**Stan Kaleczyc, Verizon Wireless**  
**Curtis Larsen, Montana State Fund**  
**Claudia Clifford, State Auditor's Office**  
**John Cadby, Montana Bankers' Assn.**  
**Jeanne Bauman, Montana Credit Unions League**  
**Al Montrelli, Montana Insurance Advisors**  
**Roger Halverson, Montana Assn. Of Realtors**

**Opponents:** None

**Opening Statement by Sponsor:**

**REP. BOB LAWSON. HD80, Whitefish,** said the bill would create a uniform electronic transaction act which would make electronic transmission the equivalent of manually signed papers. The act would provide uniform rules to make sure transactions made electronically are as enforceable as paper transactions. It would provide for an electronic signature to be the same as a paper signature.

**Proponents' Testimony:**

**Ms. Doggett** presented facts to the committee regarding the Federal Electronic Transaction Act. **EXHIBIT (buh12a02)** She said 23 states has enacted similar legislation.

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**Mr. Mazurek** said it is desirable for states to have similar legislation. He said had participated on a national committee which drafted this law. He added that if enough states enact this law, it will allow state law to dominate federal law.

**Mr. Herbert** emphasized there are a lot more electronic transactions on the way and this law will allow more business to be done this way. He said his office was working on a potential amendment to establish technical standards.

**Mr. Kaleczyc** said he thought it was important legislation, he supported it and thought it should be enacted. He did offer a clarifying amendment which he said a number of states had adopted which would allow individuals to activate phone service electronically. **EXHIBIT (buh12a03)**

**{Tape : 2; Side : B; Approx. Time Counter : 16}**

**Mr. Larsen** urged the committee to adopt the bill while he expressed one minor concern that it may conflict with a previous bill.

**Mr. Cadby** supported and urged the committee to pass the bill. He said the bill facilitated commerce and will allow business to be conducted across state lines.

**Ms. Bauman** supported the bill and said it opened up electronic transactions.

**Mr. Montrelli** said he supported the bill.

**Mr. Halver** urged the committee to pass the bill.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GALLIK** asked **Mr. Kaleczyc** why he felt it was necessary to include the term telephonic. **Mr. Kaleczyc** said other states had done so and it also appears in the federal law. **REP. GALLIK** also expressed the concern that if we tinkered with the bill it might become too unlike other state bills to allow states' rights to dominate federal rights.

*{Tape : 3; Side : A; Approx. Time Counter : 0}*

**REP. LAIBLE** asked **Mr. Mazurek** about the proposed amendment. **Mr. Mazurek** replied it was supposed to be general enabling legislation and not a bill specific to an industry.

**Closing by Sponsor:**

**REP. LAWSON** urged the committee to pass the bill saying it was a uniform act and that passing the bill would also show a confidence in electronic transactions as a legal process. He added that while allowing electronic transactions the act does not prohibit paper transactions.

*{Tape : 3; Side : A; Approx. Time Counter : 11.2}*

**HEARING ON HEARING ON HB255**

**Sponsor:** **REP. CHRISTOPHER HARRIS, HD30, Bozeman**

**Proponents:** **Michael Delaney, self**  
**Edgar Donohoe, self**

**Opponents:** **Mark Staples, Montana Tavern Owners Assn.**  
**Gene Burgad, Rex Restaurant, Billings**  
**Laura Fix, River Grill Restaurant, Helena**  
**Don Hedges, HD97, Sheridan County**  
**Barb Morris, Jorgenson's Restaurant, Helena**  
**Kati Kintli, attorney**  
**John Hayes, Cascade County Tavern Owners Assn.**  
**Bob Fletcher, Cannery Lounge, Bozeman**  
**Ralph Ferraro, Montana Tavern Owners Assn.**  
**Lee Ask, Gambling Control Division**  
**Carl Solvie, Grandtree Lounge, Bozeman**  
**Rich Miller, Gaming Industry Assn.**

**Opening Statement by Sponsor:**

**REP. CHRISTOPHER HARRIS, HD30, Bozeman**, said this is a simple bill in concept which allows a holder of a beer license to convert to a full liquor license for a \$75,000 fee. The fees would be deposited in a Dollars For Education Fund to be used on K-12 and higher education. He said the bill is not intended to expand the total number of licenses but to convert existing ones.

**Proponents' Testimony:**



**Mr. Delaney** said he specialized in restaurant development. He pointed out there were many people who would like to come to Montana and start restaurants, however, they are often discouraged when they find out what is involved in obtaining a liquor license. He said some revision of the liquor laws was necessary to make Montana more competitive. He said liquor was cheaper to buy in Wyoming and Idaho and often his clients complained about the distribution network.

**Mr. Donohoe** submitted written testimony. **EXHIBIT (buh12a04)**

**Opponents' Testimony:**

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**Mr. Staples** said if tomorrow beer and wine license holders could buy an all beverage license for \$75,000, the value of licenses already held by all beverage license holders would decrease by half. Also, convenience stores would become package liquor stores. He said many of the license holders mortgages were backed by their licenses and the bankers would not be happy with the devaluation. He asked the committee not to take away their investment.

**Mr. Burgad** said he paid the top dollar for his license, remodeled and used his license to get a loan for \$750,000 which he is now paying off. He said this change in the law would have a negative effect on his business.

***{Tape : 3; Side : B; Approx. Time Counter : 0}***

**Ms. Fix** said she followed the rules and obeyed them but if this law was passed it would lessen the value of her license.

**REP. HEDGES** said the state has issued licenses in good faith and now if it allowed beer and wine license holders to upgrade to all beverage without a public hearing they would be changing what they had agreed to. Bankers have also issued credit based on the type of license and that would change.

**Ms. Morris** said her family built Jorgenson's 45 years ago and she had worked there for 30 years. Now she leases the property but owns the liquor license. To her that license represents her retirement and her daughter's college education. She said a vote for this bill would devalue her investment and she asked the committee to vote no.

**Mr. Kintli** opposed the bill saying his clients were bound by contracts and they would still have to pay those contracts even

if their businesses were devalued by this bill. He asked the committee not to hurt those individuals who had obeyed the rules.

**Mr. Hayes** asked the committee to vote no on behalf of the 105 license holders and the 3000 employees in Great Falls whom he represented.

**Mr. Fletcher** said he was not looking forward to every Town Pump and Lucky Lil's opening a package liquor store. He suggested this would lead to more drinking and driving. He said the bill asked for too much, too fast under the guise of education.

**Mr. Ferraro** said he was totally opposed and they did not need more liquor licenses.

**Mr. Ash** said he was in the process of purchasing a liquor license now and he would never be able to regain his investment if this law passed.

**Mr. Solvie** said there are licenses available for sale and the committee needed to be fair. He said tavern owners went in with their eyes wide open and made an investment. He said it is only fair that the people who come in now make the same investment.

**Informational Testimony:**

**Christy Blazer, Montana Beer and Wine Wholesalers Assn.,** said her purpose was to provide information so misunderstanding could be corrected.

**Gene Huntington, Gaming Division,** said he was available for questions.

**Neal Peterson, Department of Revenue,** said he was available for questions.

**Mr. Miller** presented written testimony. **EXHIBIT (buh12a05)**

**Questions from Committee Members and Responses:**

***{Tape : 3; Side : B; Approx. Time Counter : 20}***

**REP. BOOKOUT-REINICKE** asked **Mr. Staples** if the state would be liable for devaluing these investments and how it would effect zoning laws. **Mr. Staples** said he would not rule liability out and it would probably have to be approved by the city.

**REP. BROWN** asked **Mr. Huntington** if this passed would it increase gambling. **Mr. Huntington** said yes it would since gambling establishments must have an all-liquor license.

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**REP. LAIBLE** asked how **REP. HARRIS** would compensate the individuals who suffered the decrease in value of their license. **REP. HARRIS** said perhaps the fee amount should be increased. He said the bill is designed to increase competition.

**Closing by Sponsor:**

**REP. HARRIS** said it was only natural those individuals who owned a valuable license would want to decrease competition. He said he fully understood and \$75,000 was probably too low a fee.

*{Tape : 4; Side : A; Approx. Time Counter : 7.5}*

**EXECUTIVE ACTION ON HB255**

**Motion:** **REP. LAWSON** moved that **HB255 DO PASS.**

**Discussion:** **REP. LAWSON** said he intended to vote no on the motion.

**Substitute Motion/Vote:** **REP. MATTHEWS** made a substitute motion that **HB255 BE TABLED.** Substitute motion carried unanimously.

**EXECUTIVE ACTION ON 235**

**Motion/Vote:** **REP. BROWN** moved that **HB235 DO PASS.** Motion carried unanimously.

**EXECUTIVE ACTION ON 136**

**Motion/Vote:** **REP. GALLIK** moved that **HB136 BE TABLED.** Motion carried unanimously.

**EXECUTIVE ACTION ON 145**

**Motion/Vote:** **REP. LAWSON** moved that **HB145 DO PASS AS AMENDED.** Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 11:45 A.M.

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REP. JOE MCKENNEY, Chairman

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JANE NOFSINGER, Secretary

JM/JN

**EXHIBIT** (buh12aad)